

# THE RED MAN

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# THE RED MAN

*An Illustrated Magazine Printed by Indians*

**SEPTEMBER 1916**

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States Supreme Court Relating  
to Indians



"Big Horn"



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# At a Child's Grave

I KNOW how vain it is to gild grief with words, and yet I wish to take from every grave its fear. Here in this world where life and death are equal kings, all should be brave enough to meet what all the dead have met. From the wondrous tree of life the buds and blossoms fall with ripened fruit, and in the common bed of earth patriarchs and babes sleep side by side.

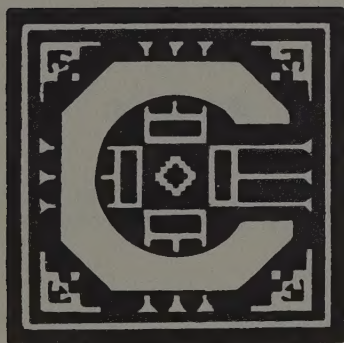
Why should we fear that which will come to all that is? We do not know which is the greater blessing—life or death. We cannot say that death is not a good. Neither can we tell which is more fortunate—the child dying in its mother's arms before its lips have learned to form a word, or he who journeys all the length of life's uneven road, painfully taking the last slow steps with staff and crutch.

Maybe that death gives all there is of worth to life. If those we press and strain within our arms could never die, perhaps that love would wither from the earth. Maybe this common fate treads from out the paths between our hearts the weeds of selfishness and hate. And I had rather live and love where death is king than have eternal life where love is not. Another life is nought unless we know and love again the ones who love us here.

They who stand with breaking hearts around this little grave need have no fear. The larger and the nobler faith in all that is and is to be tells us all that death, even at its worst, is only perfect rest. We know that through the common wants of life—the needs of each hour—their grief will lessen day by day, until at last their grave will be to them a place of rest and peace—almost of joy. There is for them this consolation—the dead do not suffer. If they live again, their lives will surely be as good as ours. We have no fear. We are all children of the same mother, and the same faith awaits us all. We, too, have our religion, and it is this: Help for the living—Hope for the dead.

ROBERT G. INGERSOLL





A magazine issued in the interest  
of the Native American

# The Red Man

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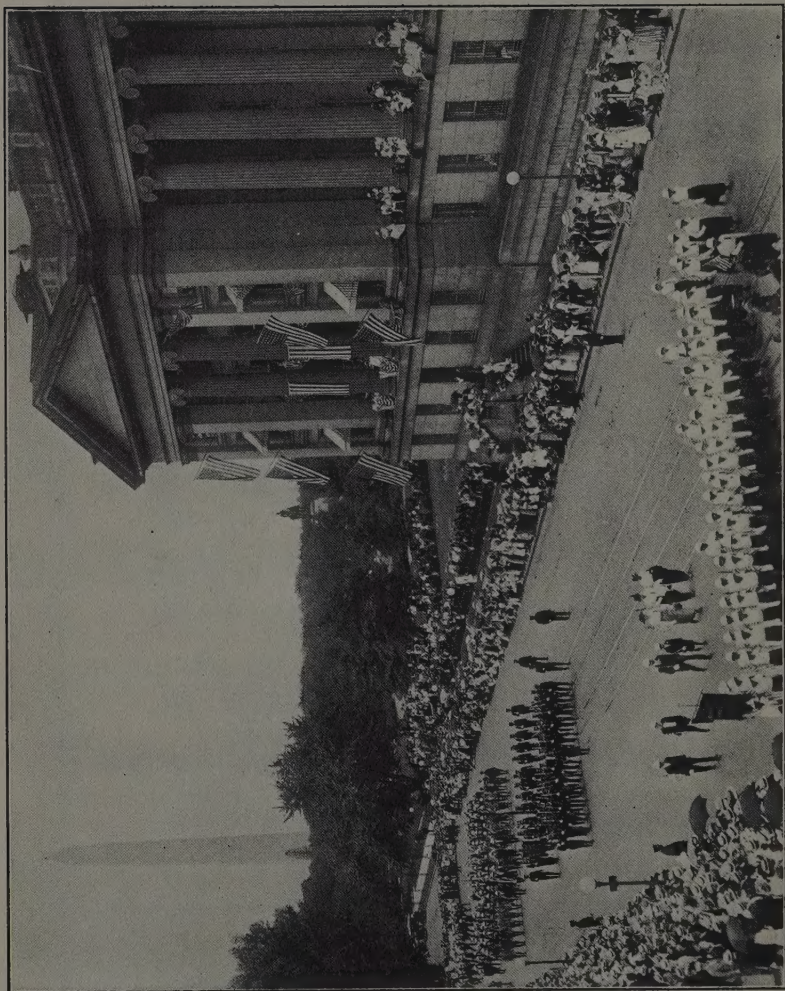
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CARLISLE STUDENTS IN PREPAREDNESS PARADE, WASHINGTON, JUNE 14, 1916





# THE RED MAN



## Important Decisions of the United States Supreme Court Relating to Indians.

IN THE SUPREME COURT OF THE UNITED STATES.

No. 681.—October Term, 1915.

The United States, Plaintiff in Error,  
*vs.*  
Fred Nice.

In Error to the District Court of  
the United States for the District  
of South Dakota.

(June 12, 1916.)

Mr. Justice Van Devanter delivered the opinion of the Court.

This is a prosecution for selling whiskey and other intoxicating liquors to an Indian in violation of the act of January 30, 1897, c. 109, 29 Stat. 506. According to the indictment, the sale was made August 9, 1914, in Tripp County, South Dakota; the Indian was a member of the Sioux tribe, a ward of the United States and under the charge of an Indian agent; and the United States was still holding in trust the title to land which had been allotted to him April 29, 1902. A demurrer was sustained and the indictment dismissed on the ground that the statute, in so far as it purports to embrace such a case, is invalid because in excess of the power of Congress. The case is here on direct writ of error under the Criminal Appeals Act, c. 2564, 34 Stat. 1246.

By the act of 1897 the sale of intoxicating liquor to "any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian superintendent or agent, or any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship," is denounced as a punishable offense.

The allotment to this Indian was made from the tribal lands in the Rosebud Reservation, in South Dakota, under the act of March 2, 1889, c. 405, 25 Stat. 888, the eleventh section of which provided that each allot-

ment should be evidenced by a patent, inaptly so called, declaring that for a period of twenty-five years—and for a further period if the President should so direct—the United States would hold the allotted land in trust for the sole use and benefit of the allottee, or, in case of his death, of his heirs, and at the end of that period would convey the same to him or his heirs in fee, discharged of the trust and free of all charges or encumbrance; that any lease or conveyance of the land, or contract touching the same, made during the trust period, should be null and void, and that each allottee should “be entitled to all the rights and privileges and be subject to all the provisions” of sec. 6 of the General Allotment Act of February 8, 1887, c. 119, 24 Stat. 388. The act of 1889 recognized the existence of the tribe, as such, and plainly disclosed that the tribal relation, although ultimately to be dissolved, was not to be terminated by the making or taking of allotments. In the acts of March 3, 1899, c. 450, 30 Stat. 1362, and March 2, 1907, c. 2536, 34 Stat. 1230, that relation was recognized as still continuing, and nothing is found elsewhere indicating that it was to terminate short of the expiration of the trust period.

By the General Allotment Act of 1887 provision was made for allotting lands in any tribal reservation in severalty to members of the tribe, for issuing to each allottee a trust patent similar to that just described and with a like restraint upon alienation, and for conveying the fee to the allottee or his heirs at the end of the trust period. Its sixth section, to which particular reference was made in § 11 of the act of 1889, declaring that, upon the completion of the allotment and the patenting of the lands, the allottees should have “the benefit of and be subject to the laws, both civil and criminal, of the State or Territory” of their residence, and that all Indians born in the United States who were recipients of allotments under “this act, or under any law or treaty,” should be citizens of the United States and entitled to all the rights, privileges and immunities of such citizens. This act, like that of 1889, disclosed that the tribal relation, while ultimately to be broken up, was not to be dissolved by the making or taking of allotments, and subsequent legislation shows repeated instances in which the tribal relations of Indians having allotments under the act was recognized during the trust period as still continuing.

With this statement of the case, we come to the question presented for decision, which are these: What was the status of this Indian at the time the whiskey and other liquors are alleged to have been sold to him? And is it within the power of Congress to regulate or prohibit the sale of intoxicating liquor to Indians in his situation?

The power of Congress to regulate or prohibit traffic in intoxicating liquor with tribal Indians within a State, whether upon or off an Indian reservation, is well settled. It has long been exercised and has been repeatedly sustained by this court. Its source is two-fold; first, the clause

in the Constitution expressly investing Congress with authority "to regulate commerce . . . with Indian tribes," and, second, the dependent relation of such tribes to the United States. Of the first it was said in *United States v. Holliday*, 3 Wall. 407, 417-419: "Commerce with the Indian tribes, means commerce with the individuals composing those tribes. . . . The locality of the traffic can have nothing to do with the power. The right to exercise it in reference to any Indian tribe, or any person who is a member of such tribe, is absolute, without reference to the locality of the traffic or the locality of the tribe, or of a member of the tribe with whom it is carried on. . . . This power residing in Congress, that body is necessarily supreme in its exercise." And of the second it was said in *United States v. Kagama*, 118 U. S. 375, 383: "These Indian tribes are the wards of the Nation. They are communities *dependent* on the United States. . . . From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power." What was said in these cases has been repeated and applied in many others.\*

Of course, when the Indians are prepared to exercise the privileges and bear the burdens of one *sui juris*, the tribal relation may be dissolved and the national guardianship brought to an end, but it rests with Congress to determine when and how this shall be done, and whether the emancipation shall at first be complete or only partial. Citizenship is not incompatible with tribal existence or continued guardianship, and so may be conferred without completely emancipating the Indians or placing them beyond the reach of congressional regulations adopted for their protection.† Thus in *United States v. Holliday*, a prosecution for selling spirituous liquor to a tribal Indian in Michigan when not on a reservation, the contention that he had become a citizen was dismissed as "immaterial;" in *Hallowell v. United States*, a prosecution for taking whiskey upon an allotment held by a tribal Indian in Nebraska, the fact that he had been made a citizen was held not to take the case out of the congressional power or regulation; and in *United States v. Sandoval*, a

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\**United States v. 43 Gallons of Whiskey*, 93 U. S. 188; *Dick v. United States*, 208 U. S. 340; *United States v. Sutton*, 215 U. S. 291; *Hallowell v. United States*, 221 U. S. 317; *Ex parte Webb*, 225 U. S. 663; *United States v. Wright*, 229 U. S. 226; *United States v. Sandoval*, 231 U. S. 28; *United States v. Pelican*, 232 U. S. 442; *Perrin v. United States*, *ibid.* 478; *Johnson v. Gearlds*, 234 U. S. 422; *Joplin Mercantile Co. v. United States*, 236 U. S. 531, 545.

†*United States v. Holliday*, 3 Wall. 407; *Cherokee Nation v. Hitchcock*, 187 U. S. 294, 308; *United States v. Rickert*, 188 U. S. 432, 445; *United States v. Celestine*, 215 U. S. 278; *Tiger v. Western Investment Co.*, 221 U. S. 286, 311-316; *Hallowell v. United States*, *ibid.* 317, 324; *United States v. Sandoval*, 231 U. S. 28, 48; *Eells v. Ross*, 64 Fed. 417; *Farrell v. United States*, 110 Fed. 942; *Mulligan v. United States*, 120 Fed. 98.



prosecution for introducing intoxicating liquors into an Indian pueblo in New Mexico, it was held that whether the Indians of the pueblo were citizens need not be considered, because that would not take from Congress the power to prohibit the introduction of such liquors among them.

The ultimate question then is, whether § 6 of the act of 1887—the section as originally enacted—was intended to dissolve the tribal relation and terminate the national guardianship upon the making of the allotments and the issue of the trust patents, without waiting for the expiration of the trust period. According to a familiar rule legislation affecting the Indians is to be construed in their interests and a purpose to make a radical departure is not lightly to be inferred. Upon examining the whole act, as must be done, it seems certain that the dissolution of the tribal relation was in contemplation; but that this was not to occur when the allotments were completed and the trust patents issued is made very plain. To illustrate: Section 5 expressly authorizes negotiations with the tribe, either before or after the allotments are completed, for the purchase of so much of the surplus lands “as such tribe shall, from time to time, consent to sell, directs that the purchase money be held in the treasury “for the sole use of the tribe,” and requires that the same, with the interest thereon, “shall be at all times subject to appropriation by Congress for the education and civilization of such tribe. . . . or the members thereof.” This provision for holding and using these proceeds, like that withholding the title to the allotted lands for twenty-five years and rendering them inalienable during that period, make strongly against the claim that the national guardianship was to be presently terminated. The two together show that the Government was retaining control of the property of these Indians, and the one relating to the use by Congress of their moneys in their “education and civilization” implies the retention of a control reaching far beyond their property.

As pointing to a different intention, reliance is had upon the provision that when the allotments are completed and the trust patents issued the allottees “shall have the benefit of and be subject to the laws, both civil and criminal, of the State” of their residence. But what laws was this provision intended to embrace? Was it all the laws of the State, or only such as could be applied to tribal Indians consistently with the Constitution and the legislation of Congress? The words, although general, must be read in the light of the act as a whole and with due regard to the situation in which they were to be applied. That they were to be taken with some implied limitations, and not literally, is obvious. The act made each allottee incapable during the trust period of making any lease or conveyance of the allotted land, or any contract touching the same, and, of course, there was no intention that this should be affected by the laws of the State. The act also disclosed in an unmistakable way that the education and civi-



lization of the allottees and their children were to be under the direction of Congress, and plainly the laws of the State were not to have any bearing upon the execution of any direction Congress might give in this matter. The Constitution invested Congress with power to regulate traffic in intoxicating liquors with the Indian tribes, meaning with the individuals composing them. That was a continuing power of which Congress could not divest itself. It could be exerted any time and in various forms during the continuance of the tribal relation, and clearly there was no purpose to lay any obstacle in the way of enforcing the existing congressional regulations upon this subject or of adopting and enforcing new ones if deemed advisable.

The act of 1887 came under consideration in *United States v. Rickert*, 188 U. S. 432, a case involving the power of the State of South Dakota to tax allottees under that act, according to the laws of the State, upon their allotments, the permanent improvements thereon and the horses, cattle and other personal property issued to them by the United States and used on their allotments, and this court, after reviewing the provisions of the act and saying, "These Indians are yet wards of the nation, in a condition of pupillage or dependency, and have not been discharged from that condition," held that the State was without power to tax the lands and other property, because the same were being held and used in carrying out a policy of the Government in respect of its dependent wards, and that the United States had such an interest in the controversy as entitled it to maintain a bill to restrain the collection of the taxes.

In addition to the facts that both acts—the general one of 1887 and the special one of 1889—disclose that the tribal relation and the wardship of the Indians were not to be disturbed by the allotments and trust patents we find that both Congress and the administrative officers of the Government have proceeded upon that theory. This is shown in a long series of appropriation and other acts and in the annual reports of the Indian Office.

As, therefore, these allottees remain tribal Indians and under national guardianship, the power of Congress to regulate or prohibit the sale of intoxicating liquor to them, as is done by the act of 1897, is not debatable.

We recognize that a different construction was placed upon § 6 of the act of 1887 in *Matter of Heff*, 197 U. S. 488, but after re-examining the question in the light of other provisions in the act and of many later enactments clearly reflecting what was intended by Congress, we are constrained to hold that the decision in that case is not well grounded, and it is accordingly overruled.

*Judgment reversed.*

A true copy.

Test:

\_\_\_\_\_,  
Clerk Supreme Court, U. S.

## IN THE SUPREME COURT OF THE UNITED STATES

No. 352.—October Term, 1913.

<p>The United States, Plaintiff in Error,  <i>vs.</i>  Felipe Sandoval.</p>	}	<p>In Error to the District Court  of the United States for the  District of New Mexico.</p>
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(October 20, 1913.)

Mr. Justice Van Devanter delivered the opinion of the Court.

This is a criminal prosecution for introducing intoxicating liquor into the Indian country, to wit, the Santa Clara pueblo, in the State of New Mexico. In the District Court a demurrer to the indictment was sustained and the indictment dismissed upon the theory that the statute upon which it is founded is invalid as applied to Indian pueblos in New Mexico, because usurping a part of the police power of the State and encroaching upon its equal footing with the other States. 198 Fed. 539.

The indictment is founded upon the act of January 30, 1897, 29 Stat. 506, c. 109, as supplemented by § 2 of the act June 20, 1910, 36 Stat. 557, c. 310, being the New Mexico Enabling Act. The first act makes it a punishable offense to introduce intoxicating liquor into the Indian country, and the second in naming the conditions upon which New Mexico should be admitted into the Union, prescribed,\* in substance, that the lands then

\*The pertinent portions of the Enabling Act are:

Sec. 2. That . . . the said convention shall be, and is hereby, authorized to form a constitution and provide for a State government for said proposed State, all in the manner and under the conditions contained in this Act. . . .

"And said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State—

"First. That . . . the sale, barter, or giving of intoxicating liquors to Indians and the introduction of liquors into Indian country, which term shall also include all lands now owned or occupied by the Pueblo Indians of New Mexico, are forever prohibited.

"Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title . . . to all land lying within said boundaries owned or held by any Indian or Indian tribes the right or title to which shall have been acquired through or from the United States or any prior sovereignty, and that until the title of such Indian or Indian tribes shall have been extinguished the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States; . . . but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any

owned or occupied by the Pueblo Indians should be deemed and treated as Indian country within the meaning of the first act and of kindred legislation by Congress.

Whether without this legislative interpretation the first act would have included the Pueblo lands we need not consider. The Territory Supreme Court had but recently held that it did not include them (*United States v. Mars*, 14 N. M. 1), and Congress, evidently wishing to make sure of a different result in the future, expressly declared that it should include them. That this was done in the enabling act and that the State was required to, and did, assent to it, as a condition to admission into the Union, in no wise affects the force of the Congressional declaration, if only the subject be within the regulating power of Congress. As was said by this court in *Coyle v. Oklahoma*, 221 U. S. 559, 574: "It may well happen that Congress should embrace in an enactment introducing a new State into the Union, legislation intended as a regulation of commerce among the States, or with Indian tribes situated within the limits of such new State, or regulations touching the sole care and disposition of the public lands or reservations therein, which might be upheld as legislation within the sphere of the plain power of Congress. But in every such case such legislation would derive its force not from any agreement or compact with the proposed new State, nor by reason of its acceptance of such enactment as a term of admission, but solely because the power of Congress extended to the subject, and, therefore, would not operate to restrict the State's legislative power in respect of any matter which was not plainly within the regulating power of Congress." To the same effect are *Pollard v. Hagan*, 3 How. 212, 224-225, 229; *Ex Parte Webb*, 225 U. S. 663, 683, 690-691.

The question to be considered, then, is whether the status of the Pueblo Indians and their lands is such that Congress competently can prohibit the introduction of intoxicating liquor into those lands notwithstanding the admission of New Mexico to statehood.

There are as many as twenty Indian pueblos scattered over the State, having an aggregate population of over 8,000. The lands belonging to

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lands or other property outside of an Indian reservation owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid or as may be granted or confirmed to any Indian or Indians under any Act of Congress, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as Congress has prescribed or may hereafter prescribe . . .

"Eighth. That whenever hereafter any of the lands contained within Indian reservations or allotments in said proposed State shall be allotted, sold, reserved, or otherwise disposed of, they shall be subject for a period of twenty-five years after such allotment, sale, reservation, or other disposal to all the laws of the United States prohibiting the introduction of liquor into the Indian country; and the term "Indian" and "Indian country" shall include the Pueblo Indians of New Mexico and the lands now owned or occupied by them."

the several pueblos vary in quantity, but usually embrace about 17,000 acres, held in communal, fee simple ownership under grants from the King of Spain made during the Spanish sovereignty and confirmed by Congress since the acquisition of that territory by the United States. 10 Stat. 309, c. 103, §8; 11 Stat. 374, c. 5. As respects six of the pueblos, one being the Santa Clara, adjacent public lands have been reserved by executive orders for the use and occupancy of the Indians.

The people of the pueblos, although sedentary rather than nomadic in their inclinations, and disposed to peace and industry, are nevertheless Indians in race, customs, and domestic government. Always living in separate and isolated communities, adhering to primitive modes of life, largely influenced by superstition and fetichism, and chiefly governed according to the crude customs inherited from their ancestors they are essentially a simple, uninformed and inferior people. Upon the termination of the Spanish sovereignty they were given enlarged political and civil rights by Mexico, but it remains an open question whether they have become citizens of the United States. See treaty of Guadalupe Hidalgo, Articles VIII and IX, 9 Stat. 922, 929; *United States v. Joseph*, 94 U. S. 614, 618; *Elk v. Wilkins*, 112 U. S. 94. Be this as it may, they have been regarded and treated by the United States as requiring special consideration and protection like other Indian communities. Thus,\* public moneys have been expended in presenting them with farming implements and utensils and in their civilization and instruction; agents and superintendents have been provided to guard their interests; central training schools and day schools at the pueblos have been established and maintained for the education of their children; dams and irrigation works have been constructed to encourage and enable them to cultivate their lands and sustain themselves; public lands, as before indicated, have been reserved for their use and occupancy where their own lands were deemed inadequate; a special attorney has been employed since 1898, at an annual cost of \$2,000, to represent them and maintain their rights; and when latterly the Territory undertook to tax their lands and other property, Congress forbade such taxation, saying: "That the lands now held by the various villages or pueblos of Pueblo Indians, or by individual members thereof, within Pueblo reservations or lands, in the Territory of New Mexico, and all personal property furnished said Indians by the United States, or used in cultivating said lands, and any cattle and sheep now possessed or that may hereafter be acquired by said Indians, shall be free and exempt from taxation of any sort whatsoever, including taxes heretofore levied, if any, until Con-

\*See *inter alia*, 10 Stat. 330, c.167; 17 Stat. 165, c. 233; 18 Stat. 147, c. 389; 21 Stat. 130, c. 85; 22 Stat. 83, c. 167; 26 Stat. 337, 353, c. 807; 30 Stat. 594, c. 545; 36 Stat. 278, c. 140; Reports Com'r Indian Affairs, 1907, p. 58; 1908, p. 55; 1909, p. 48; 1 Kappler, 878, 880; Executive Orders Relating to Indian Reservations (1912), 124-127, 129-130.





FAMOUS SHAKESPEARIAN CHARACTERS AS REPRESENTED BY CARLISLE STUDENTS  
AT THE CLOSING EXERCISES, MAY 23d.



FAMOUS SHAKESPEARIAN CHARACTERS AS REPRESENTED BY CARLISLE STUDENTS.  
Left to right: Portia (Alta Printup), Nerissa (Mary Ann Cutler), Viola (Maude Cooke), Cordelia (Charlotte Smith),  
Miranda (Agnes Hatch), a Page (Andrew Cuellar).

gress shall otherwise provide." 33 Stat. 1048, 1069, c. 1479. An exempting provision was also inserted in § 2 of the Enabling Act.

The local estimate of this people is reflected by a New Mexico statute adopted in 1854 and carried in subsequent compilations, whereby they were excluded from the privilege of voting at the popular elections of the "Territory" other than the election of overseers of ditches in which they were interested and the election of the officers of their pueblos "according to their ancient customs." Laws 1853-4, p. 142, §3; Comp. Laws 1897, § 1678.

With one accord the reports of the superintendents charged with guarding their interests show that they are dependent upon the fostering care and protection of the Government, like reservation Indians in general; that, although industrially superior, they are intellectually and morally inferior to many of them; and that they are easy victims to the evils and debasing influence of intoxicants. We extract the following from published reports of the superintendents:

*Albuquerque, 1904:* "While a few of these Pueblo Indians are ready for citizenship and have indicated the same by their energy and willingness to accept service from the railroad companies and elsewhere, and by accepting the benefits of schools and churches, a large per cent of them are unable, and not yet enough advanced along the lines of civilization, to take upon themselves the burden of citizenship. It is my opinion that in the event taxation is imposed it will be but a short time before the masses of the New Mexico Pueblo Indians will become paupers. Their lands will be sold for taxes, the whites and the Mexicans will have possession of their ancient grants, and the Government will be compelled to support them or witness their extermination."

*Santa Fe 1904:* "The Pueblos have little or no money, and they cannot understand why they should be singled out from all other Indians and be compelled to bear burdens (Territorial taxes) which they are not able to assume. . . . They will not vote, nor are they sufficiently well informed to do so intelligently."

*Zuni, 1904:* "Last November when they had their Shaleco dance I determined to put a stop to the drunkenness. I wrote to the Indian Office asking for a detachment from Fort Wingate. I soon received a reply that my request had been granted. I said nothing to anyone. The afternoon the Shaleco arrived the detachment rode in, the Indians thinking they were passing through, and were making preparations to have a good time. When they were notified that a Navajo was celebrating, they promptly arrested him and brought him over to the guardhouse, and during the evening two others were arrested with whiskey in their possession, and also a Pueblo Indian. The detachment remained until the dance was over and the visiting Indians had left for their homes."

*Santa Fe*, 1905: "Until the old customs and Indian practices are broken among this people we cannot hope for a great amount of progress. The secret dance from which all whites are excluded, is perhaps one of the greatest evils. What goes on at this time I will not attempt to say, but I firmly believe that it is little less than a ribald system of debauchery. The Catholic clergy is unable to put a stop to this evil, and know as little of same as others. The United States mails are not permitted to pass through the streets of the pueblos when one of these dances is in session; travelers are met on the outskirts of the pueblo and escorted at a safe distance around. The time must come when the Pueblos must give up these old pagan customs and become citizens in fact."

*Santa Fe*, 1906: "There is a greater desire among the Pueblo to live apart and be independent and have nothing to do with the white race than among any other Indians with whom I have worked. They really care nothing for schools, and only patronize them to please their agent and incidentally to get the issue given out by the teacher. The children, however, make desirable pupils, and if they could be retained in school long enough more might be accomplished. The returned student going back to the pueblo has a harder task before him than any other class of returned students I know. It is easier to go back to the Sioux tepee and lead a white man's life than to go back to the pueblo and retain the customs and and manners taught in the school.

"In pueblo life the one-man domination—the fear of the wrath of the governor of the pueblo—is what holds this people down. The rules of the pueblo are so strict that the individual cannot sow his wheat, plant his corn, or harvest the same in the autumn without the permission of the pueblo authorities. The pueblos under my jurisdiction that adhere religiously to old customs and rules are Taos, Picuris, Santo Domingo, and Jemez, though there are none of them that have made much progress away from the ancient and pagan rites.

"Intemperance is the besetting sin of the Pueblo.... If the law against selling intoxicants to this simple and ignorant people is allowed to stand as now interpreted (Act of 1897 as construed by Territorial court), it simply means the ultimate extermination of the pueblo and the survival of the fittest."

*Santa Fe*, 1909: "While apparently the Pueblo Indians are law abiding, it has come to my notice during the past year that in the practice of the Pueblo form of government cruel and inhuman punishment is often inflicted. I have strongly advised the Indians against this, and your office has through me, done likewise. The Pueblos, however, are very insistent upon retaining their ancient form of government. As long as they are permitted to lead a communal life and exercise their ancient form of government, just so long will there be ignorant and wild Indians to civilize. The



Pueblo form of government recognizes no other form of government and no other authority. While apparently they submit to the laws of the Territory and the Government, they do so simply because they are compelled to acquiesce. The returned student who has been five years at the boarding school is compelled to adopt the Indian dress upon his return to the pueblo; he is compelled to submit to all the ancient and heathen customs of his people. If he rebels he is punished. He therefore lapses back and becomes like one who has never seen the inside of a school."

*Zuni, 1909:* "The Zunis, especially the old people, are very much opposed to sending their children to school and to every influence that tends to draw them away from their ways and habits of living; but by persistent effort, and by appealing to their reason, we succeeded in filling the school with children. The children are happy and contented while at school, but when they go home for a visit, their mothers and older sisters talk and make them dissatisfied and they do not wish to return. This is especially true of the girls. . . . Immorality and a general laxness in regard to their family relations, together with their pagan practices, are the great curse of this tribe. They have no marriage ceremony that is binding, and a man will often live with two or three different women during one year. This custom is very demoralizing. In some cases the father will sell his daughters and the husband his wife for the purpose of prostitution. If marriage and divorce laws could be enforced, it would be a great blessing to these people. . . . We have had very little trouble with liquor on the reservation during the past year, and the Pueblo officers co-operate with me in trying to keep it from being brought on the reservation."

This view of the Pueblo customs, government and civilization finds strong corroboration in the writings of ethnologists, such as Bandelier and Stevenson, who, in prosecuting their work, have lived among the Pueblos and closely observed them. *Papers Arch. Inst. Am. Ser. Vol. 3, part 1 (1890); Bureau Am. Ethn. Reports, Vol. 11 (1889-90) and 23 (1901-02).*

During the Spanish dominion the Indians of the pueblos were treated as wards requiring special protection, were subjected to restraints and official supervision in the alienation of their property, and were the beneficiaries of a law declaring "that in the places and pueblos of the Indians no wine shall enter, nor shall it be sold to them." *Chouteau v. Molony*, 16 How. 203, 237; *Laws of the Indies*, Book 6, title 1, laws 27 and 36, title 2, law 1; Book 5, title 2, law 7; Book 4, title 12, laws 7, 9, 16-20; *Cedulas and Decrees shown in Hall's Mexican law*, §§ 162-171. After the Mexican succession they were elevated to citizenship and civil rights not before enjoyed, but whether the prior tutelage and restrictions were wholly terminated has been the subject of differing opinions. *United States v. Pico*, 5 Wall. 536, 540; *Sunal v. Hepburn*, 1 Cal. 254, 279-280, 291-292; 1 *Nuevo Febrero Mexicano*, pp. 24-25; *Hall's Mexican Laws*, § 161; *United*

*States v. Ritchie*, 17 How. 525, 540. In the last case this court observed "The improvement of the Indians, under the influence of the missionary establishments in New Spain, which had been especially encouraged and protected by the mother country, had, doubtless, qualified them in a measure for the enjoyment of the benefits of the new institutions. In some parts of the country very considerable advancement had been made in civilizing and Christianizing the race. From their degraded condition, however, and ignorance generally, the privileges extended to them in the administration of the government must have been limited; and they still, doubtless, required its fostering care and protection." And in the *Pico* case the court, referring to the status of an Indian pueblo and its inhabitants during the Mexican regime said: "The disposition of the lands assigned was subject at all times to the control of the government of the country. The pueblo of Las Flores was an Indian pueblo, and over the inhabitants the government extended a special guardianship."

But it is not necessary to dwell especially upon the legal status of the people under either Spanish or Mexican rule, for whether Indian communities within the limits of the United States may be subjected to its guardianship and protection as dependent wards turns upon other considerations. See *Pollard v. Hagan*, 3 How. 212, 225. Not only does the Constitution expressly authorize Congress to regulate commerce with the Indian tribes, but long continued legislative and executive usage and unbroken current of judicial decisions have attributed to the United States as a superior and civilized nation the power and the duty of exercising a fostering care and protection over all dependent Indian communities within its borders, whether within its original territory or territory subsequently acquired, and whether within or without the limits of a State. As was said by this court in *United States v. Kagama*, 118 U. S. 375, 384: "The power of the General Government over these remnants of a race once powerful, now weak and diminished in numbers, is necessary to their protection as well as to the safety of those among whom they dwell. It must exist in that Government, because it never has existed anywhere else, because the theater of its exercise is within the geographical limits of the United States, because it has never been denied, and because it alone can enforce its laws on all the tribes." In *Tiger v. Western Investment Co.*, 221 U. S. 286, 315, prior decisions were carefully reviewed and it was further said: "Taking these decisions together, it may be taken as the doctrine of this court that Congress, in pursuance of the long established policy of the Government, has a right to determine for itself when the guardianship which it has maintained over the Indian shall cease. It is for that body, and not for the courts, to determine when the true interests of the Indian require his release from such condition of tutelage."

Of course, it is not meant by this that Congress may bring a community

or body of people within the range of this power by arbitrarily calling them an Indian tribe, but only that in respect of distinctly Indian communities the questions whether, to what extent, and for what time they shall be recognized and dealt with as dependent tribes requiring the guardianship and protection of the United States are to be determined by Congress and not by the courts. *United States v. Holliday*, 3 Wall 407, 419; *United States v. Rickert*, 188 U. S. 432, 443, 445; *Matter of Heff*, 197 U. S. 488, 499; *Tiger v. Western Investment Co.*, *supra*.

As before indicated, by a uniform course of action beginning as early as 1854 and continued up to the present time, the legislative and executive branches of the Government have regarded and treated the Pueblos of New Mexico as dependent communities entitled to its aid and protection like other Indian tribes, and, considering their Indian lienage, isolated and communal life, primitive customs and limited civilization, this assertion of guardianship over them cannot be said to be arbitrary but must be regarded as both authorized and controlling. As was said in *United States v. Holliday*, *supra*: "In reference to all matters of this kind, it is the rule of this court to follow the executive and other political departments of the Government, whose more special duty it is to determine such affairs. If by them those Indians are recognized as a tribe, this court must do the same. If they are a tribe of Indians, then, by the Constitution of the United States, they are placed, for certain purposes, within the control of the laws of Congress. This control extends, as we have already shown, to the subject of regulating the liquor traffic with them. This power residing in Congress, that body is necessarily supreme in its exercise." In that case the Congressional enactment prohibiting the sale of liquor to Indian wards and forbidding its introduction into the Indian country was applied to a sale in the State of Michigan to an Indian who had and exercised the right to vote under the laws of the State, and other applications of the statute to Indians and Indian land in other States are shown in *United States v. 43 Gallons of Whiskey*, 93 U. S. 188, 197; *Dick v. United States*, 208 U. S. 340; *United States v. Sutton*, 215 U. S. 291; *Hallowell v. United States*, 221 U. S. 317; *United States v. Wright*, 229 U. S. 226.

It is said that such legislation cannot be made to embrace the Pueblos because they are citizens. As before stated, whether they are citizens is an open question, and we need not determine it now, because citizenship is not in itself an obstacle to the exercise by Congress of its power to enact laws for the benefit and protection of tribal Indians as dependent people. *Cherokee Nation v. Hitchcock*, 187 U. S. 294, 308; *United States v. Rickert*, 188 U. S. 432, 445; *United States v. Celestine*, 215 U. S. 278, 290; *Hallowell v. United States*, *supra*.

It is also said that such legislation cannot be made to include the lands of the Pueblos, because the Indians have a fee simple title. It is true that

the Indians of each pueblo do have such a title to all the lands connected therewith, excepting such as are occupied under executive orders, but it is a communal title, no individual owning any separate tract. In other words, the lands are public lands of the pueblo, and so the situation is essentially the same as it was with the Five Civilized Tribes, whose lands, although owned in fee under patents from the United States, were adjudged subject to the legislation of Congress enacted in the exercise of the Government's guardianship over those tribes and their affairs. *Stevens v. Cherokee Nation*, 174 U. S. 445, 488; *Cherokee Nation v. Hitchcock*, *supra*; *Heckman v. United States*, 224 U. S. 413; *Gritts v. Fisher*, *id.* 640; *United States v. Wright*, *supra*. Considering the reasons which underlie the authority of Congress to prohibit the introduction of liquor into the Indian country at all, it seems plain that this authority is sufficiently comprehensive to enable Congress to apply the prohibition to the lands to the Pueblos.

We are not unmindful that in *United States v. Joseph*, 94 U. S. 614, there are some observations not in accord with what is here said of these Indians, but as that case did not turn upon the power of Congress over them or their property, but upon the interpretation and purpose of a statute not nearly so comprehensive as the legislation now before us, and as the observations there made respecting the Pueblos were evidently based upon statements in the opinion of the Territorial court, then under review, which are at variance with other recognized sources of information, now available, and with the long continued action of the legislative and executive departments, that case cannot be regarded as holding that these Indians or their lands are beyond the range of Congressional power under the Constitution.

Being a legitimate exercise of that power, the legislation in question does not encroach upon the police power of the State or disturb the principle of equality among the States. *United States v. Holliday*, *United States v. 43 Gallons of Whiskey*, *United States v. Kagama*, *Hallowell v. United States*, and *Ex parte Webb*, *supra*.

The judgment is accordingly reversed, with directions to overrule the demurrer to the indictment and to proceed to the disposition of the case in regular course.

*Reversed.*

True copy.

Test:

\_\_\_\_\_,  
Clerk Supreme Court.



## "Big Horn"

*By Mayme E. Finley.*

Mighty "Big Horn" murmuring waters,  
Close reside thee; was our home,  
We, the Crows, a peaceful people  
Through your valleys did we roam  
For the wild deer, who at sunset  
Came to drink his thirsty fill,  
Only raised his head to listen  
As the night bird sang his trill.  
Knew he not the stinging arrow  
Would find its way into his heart;  
Like the sorrow of the Red Man;  
When from "Big Horn" he must part.  
Where the blue grass waned and rustled  
As the breeze went singing o'er  
Making waves like shining billows  
Down to meet the Big Horn's shore.  
Heard you then the pheasant droning  
Like the Indians raw hide drum,  
As he dances to the tom-tom;  
For the Holy Spirit to come  
And bless his People, trusting Children,  
In God's happy hunting ground  
Where the tepees cast their shadows  
On the waters of the "Big Horn."  
Then at sunset heard the coyote  
From the distant hill and plain,  
Like a Spirit lost in wandering  
Came the answer in refrain.  
In the cottonwood, the hoot-owl  
Wakened from his peaceful rest  
Asks: Who! Who! are you to bother  
In this lonely wilderness.  
O'er the West, the Sun God's glory  
Burst in splendor;—wondrous morn,  
Casting red upon the tepees  
On the banks of "Old Big Horn."  
Let me stay: Oh then forever:  
In my lodge on "Old Big Horn."



## Iroquois Hospitality a Matter of Record:

*From the Albany Argus.*



ONE has more knowledge of the customs of the Indians who inhabited this part of the State before the Dutch settled Albany than Arthur C. Parker, of this city, State archeologist. He is a veritable mine of information in this line and has enriched the State Museum with records of the customs and traditions of the aborigines. Referring to the household customs of the Iroquois and what their food mainly

consisted of, he says:

"The Iroquois in precolonial and even during early colonial times had but one regular meal each day. This was called *sedetcinegwa*, morning meal, and was eaten between 9 and 11 o'clock. Few of the eastern Indians had more than two regular meals each day, but this did not prevent any one from eating as many times and as much as he liked, for food was always ready in every house at all times.

### **Kept Warm All Day.**

"THE food for the day was usually cooked in the morning and kept warm all day. For special occasions, however, a meal could be cooked at any time, but as a rule an Iroquois household did not expect a family meal except in the morning. As every one had four or five hours exercise before this meal, it was thoroughly enjoyed.

"In apportioning a meal the housewife dipped the food from the kettle or took it from its receptacle and placed it in bark and wooden dishes which she handed the men. They either sat on the floor or ground or stood along the wall as was most convenient. The women and children were then served. This old time custom still has its survival in the modern eating habits of the more primitive Iroquois. There are now tables and chairs and three regular meals, to be sure, but the women serve the men first and then, when the men have gone from the room, arrange the meal for themselves.

"Regular meals two and three times a day did not come until the

communal customs of the Iroquois had given way to the usages of modern civilization. Even then, as Morgan observes, one of the difficulties was to change the old usage and accustom themselves to eating together. It came about, as this author says, with the abandonment of the communal houses and the establishment of single family houses where the food for the household was secured by the effort of the family alone.

### Very Hospitable.

“UNDER the old regime food was kept ready for any one who might call for it at any time. The single meal of the late morning did not prevent any one from eating as many times as he pleased.

“Springing from the law of communism came the law of common hospitality. Any one from anywhere could enter any house at any time if occupants were within and be served with food. Indeed, it was the duty of the housewife to offer food to every one that entered her door. If hungry the guest ate his fill, if he had already eaten he tasted the food as a compliment to the giver. A refusal to do this would have been an outright insult. There was never need for any one to go hungry or destitute, the unfortunate and the lazy could avail themselves of the stores of the more fortunate and the more energetic. Neither begging nor laziness were encouraged, however, and the slightest indication of an imposition was rebuked in a stern manner.

“Heckewelder explains this law of hospitality in a forcible manner. ‘They think that he (the Great Spirit) made the earth and all that it contains,’ he writes, ‘that when he stocked the country that he gave them with plenty of game, it was not for the benefit of the few, but for all.’ This idea that the Creator gave of his bounty for the good of the entire body of people was one of the fundamental laws of the Iroquois. As air and rain were common, so was everything else to be. Heckewelder expresses this when he continues: ‘Everything was given in common to the sons of men. Whatever liveth on land, whatsoever groweth out of the earth, and all that is in the rivers and waters flowing through the same, was given jointly to all, and every one is entitled to his share. From this principle hospitality flows as from its source. With them it was not a virtue but a strict duty; hence they are never in search of excuses to avoid giving, but freely support their neighbors’ wants from the stock prepared for their own use. They give and are hospitable to all without exception and will always share with each other and often with the stranger to the last morsel. They would rather lie down themselves on an empty stomach than have it laid to their charge that they had neglected their duty of not satisfying the wants of the stranger, the sick or the needy. The stranger has a claim to their hospitality, partly on account of his being at a distance from his family and friends, and partly because he has honored

them with his visit and ought to leave them with a good impression on his mind; the sick and the poor because they have a right to be helped out of the common stock, for if the meat they are served with was taken from the woods it was common to all before the hunter took it; if corn and vegetables, it had grown out of the common ground, yet not by the power of men but by that of the Great Spirit.'

### Great Feasts.

"WHEN distinguished guests came into a community a great feast was prepared for them. Various French, Dutch, and English writers who visited the Iroquois during the colonial period have written of these feasts and some of them describe the feasts in a vivid way. Sometimes the food was unpalatable to European taste and sometimes however unpalatable it was eaten with great gusto, so sharp a sauce does hunger give.

"John Bartram, who made a trip from Philadelphia to Onondaga in the middle of the eighteenth century, with Conrad Weiser, Lewis Evans and Shikellamy, records in his observations:

" 'We lodged within 50 yards of a hunting cabin where there were two men, a squaw and a child. The men came to our fire, made us a present of some venison and invited Mr. Weiser, Shikellamy and his son to a feast at their cabin. It is incumbent on those who partake of a feast of this sort to eat all that comes to their share or burn it. Now Weiser being a traveler was entitled to a double share, but being not very well, was forced to take the benefit of a liberty indulged him of eating by proxy, and he called me. But both being unable to cope with it, Evans came to our assistance, notwithstanding which we were hard set to get down the neck and throat, for these were allotted to us. And now we had experienced the utmost bounds of their indulgence, for Lewis, ignorant of the ceremony of throwing a bone to the dog, though hungry dogs are generally nimble, the Indian, more nimble, laid hold of it first and committed it to the fire, religiously covering it over with hot ashes. This seemed to be a kind of offering, perhaps first fruits to the Almighty Power to crave future success in the approaching hunting season.'

"Instances of the hospitality of the Iroquois toward the whites and Indians could be cited at great length, with but one result, that of confirming the statement that hospitality was an established usage. The Indians were often greatly surprised to find that on their visits to white settlements they were not accorded the same privilege, and thought the whites rude and uncivil people. 'They are not even familiar with the common rules of civility which our mothers teach us in infancy,' said one Indian in expressing his surprise.

"The Iroquois were not great eaters, that is to say, they seldom gorged



themselves with food at their private meals or at feasts, except perhaps for ceremonial reasons. To do so ordinarily would be a religious offense and destroy the capacity to withstand hunger. Children were trained to eat frugally and taught that overeating was far worse than undereating. They were warned that gluttons would be caught by a monster known as Sagodakwus, who would humiliate them in a most terrible manner if he found that they were gourmands.

### Liked Beans.

**B**EANS next to corn were regarded as a favorite food and quantities are still eaten. The Iroquois have 10 or more varieties of beans which they claim are ancient species which have long been cultivated. Some are said now to be cultivated only by the Iroquois.

"The cornstalk bean, oageka, is thought by the Seneca to be the most ancient bean and perhaps the species which grew from the Earth-Mother's grave.

"The bean is an indigenous American plant, at least it grew here in Pre-columbian times. Explorers and early writers have left us many references to it and most agree that it is an American plant. Among the varieties of bean foods may be mentioned:

"Bean soup. This was made in several ways: from string beans cooked in the pods, from shelled green beans and from dried beans. Often sugar was put in as a seasoning.

"Fried cooked green beans. The cooked green beans were fried in sunflower or bear oil and eaten with salt.

"Mashed bean pudding. Dried beans were put in a mortar and pounded coarsely, soaked in cold water and boiled down to a pudding with bear meat or venison.

"Boiled beans. These were mashed and mixed with sugar and grease.

"Beans and squash 'together.' Cook cranberry beans with the pods and when beans are almost dry serve in the shell of a boiled squash. The dish is served at the Green Corn Thanksgiving ceremony and is called Onondeikwawas, cooked-together-food.

"Beans with corn. Green shelled beans were boiled with green sweet corn, meat or fat. The red beans were preferred.

### Squashes and Melons.

**T**HE squash plant is indigenous to America and was cultivated to a large extent by the Iroquois and other eastern stocks. The word squash is derived from the Algonquin akuta squash or isquouter squash (colonial spelling). Roger Williams writing on the agriculture of the New England Indians says: 'Askuta squash, their vine apples, which the English from them call squashes, are about the bigness of apples of several colors, and sweet light wholesome refreshing.'

"Van Curler in the same year wrote in his journal: 'We had a good many pumpkins cooked and baked that they called anansira.'

"This was in December, which of course shows the use of squashes in winter. Van Curler attests the hospitality of the Mohawk when he writes: 'A woman came to meet us bringing us baked pumpkins to eat.'

"The squash was one of the principal foods of the Iroquois, who even yet regard it as a favorite. The records of early travelers abound in references to the uses of squashes and pumpkins. Some of them praised 'pompions' for their goodness, while others affirmed that the 'citrules' were hard, tasteless things. Hunger and mood largely govern description of food.

"Lahontan records that the citruls (pumpkins) of this country are sweet and of a different nature from those of Europe. And I am informed, he writes, 'that the American citruls will not grow in Europe. They are as big as our Melons; and their Pulp is as yellow as Saffron. Commonly they are bak'd in Ovens, but the better way is to roast 'em under the Embers as the Savages do. Their Taste is much the same with that of the marmalade of Apples, only they are sweeter. One may eat as much of 'em as he pleases without fearing disorder.'

"Charles Hawley in his Early Chapters of Cayuga History quotes Dr. Shea's translation of de Casson's *Historie de Montreal* which gives the account of the journey of Trouve and the Catholic fathers to Kente. A part of the narrative reads:

" 'Having arrived at Kente we were regaled there as well as it was possible by the Indians of the place. It is true that the feast consisted only of some citrouilles (squashes) frocasseed with grease and which we found good; they are indeed excellent in this country and can not enter into comparison with those of Europe. It may even be said that it is wronging them to give them the name citrouilles. They are of a very great variety of shapes and scarcely one has any resemblance to those in France. They are some so hard as to require a hatchet if you wish to split them open before cooking. All have different names.'

"A favorite way of preserving pumpkins and squashes for winter use was to cut them into spirals or thin sections and hang them on the drying racks to evaporate. Sometimes even now this method is used. A string would hold about half a pumpkin or squash and be suspended perpendicularly to pegs back of the stove or near the fireplace.

#### Varieties of Squashes.

THE Iroquois generally planted their squashes in the same hills with corn and some kinds of beans. Beside the land and labor saved by this custom there was a belief that these three vegetables were guarded by three inseparable spirit sisters and that the plants would not thrive apart in consequence.

"Some of their squash foods were: Baked squash.—Squashes were baked in ashes and the whole squash eaten, the shell and seeds included. Boiled squash.—Squashes were split and cleaned and boiled in water salted to taste.

"Boiled squash flower. The infertile flowers of the squash were boiled with meat and the sauce used as a flavoring for meats and vegetables.

"Melons were planted in patches in the woods cleared by burning, the leaf mold furnishing a good medium for growth. Those who planted melons in cleared woodland tracts set up poles upon which were painted clan totems and the name signs of the owners. The totem sign signified that while, according to the communistic laws, the patch belonged, nominally to the clan, and that any clansman might take the fruit if necessary, yet by virtue of the fact that the garden was cleared, planted and cultivated by the individual whose name was indicated, the individual claim and right should be recognized as actually prior, thought not nominally.

"Before the frost the melon vines that still had unripe fruit were often dug up without disturbing the roots and replanted in a basket of sand to be taken to the lodge and kept under the beds or in small cellars. During the winter months, so several informants said, the melons would mature and were reserved for the sick."



# Old Indian Ceremonials:

*By Ashmun Brown, in the Washington Post.*



OW would you like to join a lodge in which there are seven degrees, and in which it requires about three days' work to complete the ceremonies of initiation in each degree?

And where it takes about seven years' savings of of yourself and family to pay the fees of each degree?

And where, when it is all over, you haven't even a secret password to show for it, for this is not a secret lodge?

**S**UCH a lodge flourishes today in the United States, and has flourished for unnumbered centuries. Its chronicles are unwritten, its history shrouded in the silence of the past; but its ceremonial work is probably the same as it was before Columbus ever came to these shores.

Freely translated, the name of the lodge is "The Little Old Men," and its membership is confined exclusively to members of the Osage tribe of Indians in Oklahoma, the richest Indian tribe in the United States. An Osage who takes even one degree becomes a person of distinction in his tribe; one who takes several degrees rises in popular estimation.

The Little Old Men are the aristocrats of the Osages, the leaders and the substantial men of the tribe. It is better to be a Little Old Man, even with one degree, in the Osage tribe, than to be president of the first national bank in the ordinary community.

Little has been known about the lodge. Ethnologists have, in a large degree, passed it over. It has remained for Francis La Flesche of Washington, one of the foremost of American ethnologists, to make a study of the tribal organization in the course of his comprehensive study of the Osages which he has been making for the past four years under the direction of the Bureau of American Ethnology, which is part of the Smithsonian Institution.

It is a dramatic and significant story he has to tell, revealing as it does a side of the American Indian life hitherto little understood.

Mr. La Flesche is a full-blood Omaha Indian himself. Born on the Omaha reservation, he, in the Omaha Presbyterian Mission School, where he studied as a boy, attracted attention to himself by his scholarly attainments. This led to his being appointed, when about eighteen years old, to a clerkship in the Indian Bureau at Washington, where he spent some thirty years.



HIS spare time while in that service was devoted to ethnological research, save for an interval in which he attended the National University Law School in Washington, and was graduated in law.

Early he formed a friendship with Miss Alice Cunningham Fletcher, who has devoted a long life to the study of American ethnology, anthropology and archeology, who since 1891 has held the Thaw fellowship in the Peabody Museum of American Archeology and Ethnology, at Harvard and who has been assistant ethnologist of that museum since 1882. The two collaborated in a deep study of the Omaha Indians, their report, voluminous in extent, being published by the Bureau of American Ethnology in 1911.

Then, at the instance of F. W. Hodge, ethnologist in charge of the bureau, Mr. La Flesche went from the Indian Service to this bureau to take up the work among the Osages, and he has been pursuing it since. His discovery—for it amounts in reality to a discovery—of the ceremonials of the Little Old Men is but a part of the larger labor of research. Nevertheless it stands as the most important development in American ethnology in years, and his final report, when published, will be a notable contribution to the literature of the science.

The myths and legends of primitive peoples naturally figure largely in ethnological research. American Indian life is rich in these, and yet neither Mr. La Flesche nor Miss Fletcher attaches as much importance to mythology as they do to Indian ceremonials and Indian music—for all Indian tribes have their music. The ceremonials and music, as all evidence shows, are less apt to be corrupted. Folk lore, these investigators have found, is less significant in the light it sheds on ancient life and habits than ceremonials.

And so they have delved deep into Indian ceremonials. All the Indian tribes with which they have come in contact, which are many, have these in a greater or less extent, and among them, especially among the several tribes of the Siouan family, they bear marked resemblance to one another. They constitute the real Indian literature.

No ceremonials, however, are quite so elaborate as those Mr. La Flesche has found among the Osages. And these ceremonials are an expression of the myths, the poetry, the drama, the music, the religion, and the spiritual and artistic life of the people.

This lodge, or society, or association of the Little Old Men of the Osages is not secret in the sense that only members are privileged to witness its ritualistic observances. But it is secret to the extent that outsiders are not welcomed at the enactment of the ceremonials, and that a repetition of any portion of the ritual in mockery, in play, or outside of a duly convened session is considered a sacrilege. Violent death by supernatural means is the punishment for such a sacrilege.

All this has made difficult the task of Mr. La Flesche in assembling his material—material which now mounts into huge stacks of typewritten pages, containing transcriptions of the ritual used in six of the seven degrees, together with translations of the same.

The fact that he himself is an Indian and that he won the friendship of one of the adepts of the order, Chief Saucy Calf, alone gave him success. He induced Saucy Calf to recite into a talking machine much of the ritual, to the consternation and horror of the tribesmen who became aware of the violation of the holy law. The particular punishment predicted in his own clan for reciting this portion of the ritual, apart from the lodge, is death by burning.

Some months after Saucy Calf had committed the sacrilege burglars broke into his house one night to rob him, and the old man was murdered. Then to cover their crime, the burglars set fire to the house and the body of Saucy Calf was incinerated.

"A judgment !" declared some of the people of the tribe.

Since then it has been even harder than ever to acquire the information necessary. But, as stated above, the full ritual of six of the seven degrees has been gathered, chiefly on the talking machine records, and has been laboriously transcribed.

Consider that the ritual work of each of the seven degrees requires about three days to enact, and that it all is memorized by those who perform the ritual, and you have some idea of the great labor entailed in the work of transcribing it. Only a few of the Osages have memorized these rituals, songs, and ceremonial forms in full. By word of mouth, from generation to generation, they are passed on.

And so it is when a candidate is to be initiated in one of the degrees he must engage one of these adepts for the work and must pay him high fees.

High priests they are, in one aspect, and jealously they guard their profession. Apprentices to a very limited number are taught the work and as they mature they carry on the traditions of the cult, which are to charge all that the traffic will bear.

"Graft," said Mr. La Flesche, with a whimsical smile, "is not unknown among those experts in the ritualistic work. It is not unusual to see one who, though having received his high fee in advance, in the very dramatic part of the ceremony will calmly cease, sit down, draw out his pipe and begin to smoke, refusing to go on until another fee has been paid him."

Following the death of Saucy Calf, Mr. La Flesche secured help from some others of the craft, and so his work has progressed. But still he has to secure the ritual of one of the seven degrees. On that he is now working securing it in fragmentary form.

"The long and intricate ceremonies involved in the initiation in the



FAMOUS SHAKESPEARIAN CHARACTERS AS REPRESENTED BY CARLISLE STUDENTS—THE WITCHES.

Left to right: Lena Parker, Elizabeth Janis, Mary Wilmet, Ethel Lynd, Evelyn Schingler,

Winifred La Jeunesse, Mammie Heaney.



SINGERS, SPEAKERS, AND ANNOUNCERS IN SHAKESPEARIAN ENTERTAINMENT GIVEN BY CARLISLE STUDENTS.

Bottom row left to right: Willford Eshelman, Perry Keota, Lawrence O'Brien, Boyd Crowe, Fred Fleury. Second row left to right: Marie Carlrow, Mary Welch, Sara Fowler, Irene Davenport, Leona Cecil, Sophia Newagon, Margaret Raiche, Rhoda Fobb, Myrl Springer, Amy Smith, Bessie Hall, Eva Jones. Third row, standing: William Goode, Francis Ojibway,

Thomas Miles, Theodore Frank, James Leader, Guy Burns, Peter Jackson, Lawrence Silverheels, and George Tibbets.



Little Old Men Society," said Mr. La Flesche, recently, "are closely interwoven with the lives of the Osage people, and, being performed periodically, they are followed with a religious fervor by the tribesmen. Initiation into one of the degrees is a high honor coveted and craved by all Osages.

"The selection of a candidate is the province of an initiate. He determines that such a man is worthy of the honor. Then he takes to that man the ceremonial article indicating the choice, and presents it to the novice with a ceremony peculiar to that occasion. The novice receives it with a ceremony also, and is obliged to fee the donor. Then the novice consults with his relatives, and after deliberation it is decided that he is worthy of selection. Following this, he is given time to prepare.

"In ancient times, before the Osages had come in contact with the whites, seven years were allowed for preparation. Nevertheless, helped by his friends and relatives, even then a candidate was able to prepare only within two years. Now that the Osages are rich the time is not so long; one or two years at the most.

"First, a novice must secure the ceremonial articles necessary to the initiation, a puma skin, a black bear skin, a wild cat skin, a deer skin, and other articles. Securing them demonstrates the novice's endurance and skill in the chase and other admired qualities.

"Futher, he must have his substance with which to pay the fees and costs of the ceremony. Those who are expert in singing and recitation of the ritual are paid. Also it is required of the novice that he feast all of the participants in the ceremony including all members of the society who come during their enactment. This alone is a great drain. The total cost of one initiation, it has been estimated, is about \$1,500.

"When he is prepared and has the sacred ceremonial articles ready and the provisions for the feasting on hand, together with the presents of horses, blankets and other valuable articles that he must make, he sends word to his sponsor, who in turn notifies the official servant, who must convey the call for the assembly to all of the tribe in person.

"The gathering is held as a rule in a great oval building or out of doors, the oval form being retained in the arrangement of the participants. The lodge is formed east and west, the officials and those who are to perform the ritual being stationed at the east.

"In a striving to express the cosmic, the people are divided into three grand divisions, two representing the sky and two the mundane sphere—one the water and one the earth. The sky people occupy the north side of the oval, the other two facing them on the south side. Each of these divisions, in turn, is divided into seven clans. The figure seven runs through much of the proceedings.

"These seven degrees may be roughly termed the bird killing ceremony, a degree for boys; the fasting ceremony; the ceremony of the sacred bird hawk; the rush mat case ceremony; the case being a ceremonial case made of a rush mat and containing the sacred bird hawk; the ceremony of the burden strap; the ceremony of the scalp; and the ceremony of the story of the people.

"All of these seven degrees relate to the defense of the home and of the honor of the people, the preservation of the industries of the women and of the hearthstones. Naturally, they uphold the ideas of fighting defensive wars. There are, however, other ceremonials relating to the benefits of peace, not only within the tribe, but also between the tribe and other tribes.

"The two peace clans of the lodge, I may say parenthetically, have to do with the saving of the captives that have been taken in war and the adopting of them into the tribe. These peace clans have their own ceremonies and use the same rituals and songs as those used in the more warlike ceremonies, but they avoid, or try to avoid, all references to the shedding of blood or the taking of life.

"It would be a tremendous task in a brief article to recite the character of all of the rituals. Some of them, by the names I have mentioned, identify themselves. For example, the burden strap ceremony relates to the industries of the women. The strap is that used by the women in carrying fuel and food for the family. A man who takes this degree does it in honor of his wife.

"But perhaps the most interesting of all the rituals is that of the story of the people, acted out and recited, or rather sung, in a peculiar rhythm at great length.

"The sky people occupying the north side of the oval, known as the Hunga people, as the story relates, were spiritual beings, residing in the heavens, who wanted to take on a material life and obtain an earthly dwelling place. So they went to the Sun, and, addressing him as father, made known their desires. The Sun replied that he was their father, but that he would not tell them where to go. He gave them an arrow, which the people were to use when they took on material life, and he told them to go to the Moon, who was their mother, and who would tell them where to go.

"They went to the Moon, and, addressing her as mother, told her they wanted to take on material life and also asked her for a dwelling place. The Moon told them they were her children and that she would send them to the earth. Then she gave them a bow to help them along when they had become material beings. Both the Sun and the Moon promised them long life. This, perhaps, relates to tribal life.

"Then the Hunga people went to the Morning Star and to the Evening Star, who also promised long life. Then it was that, led by the eagle, who was given the sacred title of Hunga, they came to earth in four great, wide soarings.

"But they found the surface of the earth covered with the waste of waters, so they made their landings in the tops of four oak trees, each of the seven clans in its own tree. Here they appealed to the water beetles, who answered their appeal by giving them supernatural powers to contend with the waters.

"Then they appealed to the Great Elk to secure for them a resting place on dry land. He, agreeing to grant their request, threw himself on the face of the waters and thrashed about, causing the waters to recede until finally the land was exposed and only the rivers and the lakes remained moist. Then, in his joy the Great Elk rolled about on the earth. And there, on the ground where he had rolled, the hairs that he had shed in the process grew into the grasses and the forests to clothe the earth.

"So the story runs, through many chapters, telling of the manner in which the people established themselves on earth and of their meeting with the other two divisions of people—'the people who came last.'

"Much of the ritual is in dialogue, the Sun, the Moon, the Morning Star, the Evening Star, the Great Elk, and all the other characters being quoted. Accompanying each stage of the ritual comes the use of the ceremonial articles, the arrow, the bow, and all the others, each with its own significance.

"The novice, perhaps I should have explained earlier, prior to entering the house of the ceremonies, is prepared at his home for the occasion. His face is painted in a certain way, each mark having its own significance. For example, a line across the forehead denotes the line between night and day, darkness and dawn. Four tiny vertical lines at right angles to the horizontal line indicate the four directions of the compass, or the four winds of heaven. The various articles of his apparel each has its own significance. His feet are bound first in pieces of buffalo hide, signifying the dawn or uncompleted day, but at a point in his journey to the lodge he changes these for other ceremonial moccasins, signifying the full day.

"Every movement he or the adept ritualist who speaks for him in the great ceremony makes, every motion, every word, every intonation, has its own significance; every step of the ceremonial dance he is required to dance, also has its relationship to the whole. The ritualist in chanting the ritual must make no mistakes. Mistakes arouse suspicion of irreverence. The theory is that the flow of words must

proceed in a straight line to God and that a mistake, a hesitation, the dropping of a phrase, makes the line crooked, so that the ritualist must go back and start all over again to insure that his words proceed directly to God.

"I cannot emphasize too strongly the solemnity and fervor of the actors and auditors in this primitive drama. No ritual in the civilized world is performed with a greater degree of reverence and earnestness.

"What I have told you, of course, is the barest outline of the ceremonies of the Little Old Men. The subject is too vast to be compressed into a brief talk. But possibly you have gained some idea from what I have told you of what such ceremonies mean to the Indian peoples.

"A great mistake many of us make is classifying all the American Indians together and lumping in together all tribes and all individuals in a general characterization, attributing to them in common certain tendencies, habits of thought and habits of action that mark them as different from other peoples. The individual Indian, however, is just as distinct a character as the individual white.

"But all the Indians have this in common: Their tenacity in clinging to ancient ceremonies, for they as a whole are a people fond of ceremonial. Ceremonial pipes, ceremonial poles, totem poles, ceremonial articles of various sorts that to the uninformed observer seem mere curious bits of Indian junk—possibly having something to do with savage witchcraft—all have their solemn significance to the tribe which uses them. They are the signs and symbols of that which pertains to the spiritual life; for symbolism is just as general among the Indians as among other peoples."

**TO** learn a thing thoroughly  
costs money and time—  
**BUT**, it costs a great deal  
more if you don't learn.

FORD TIMES.





# Indian Dentists of a Thousand Years Ago:

*From the Schenectady (N. Y.) Gazette.*



HAT the art of filling teeth with foreign substances was known to various aboriginal tribes of the Americas hundreds of years before the Columbian era, perhaps even a thousand years ago, is a fact that has been known to archaeologists for some time. Among the leading anthropologists of this country is Dr. Marshall H. Saville, Loubat professor of American Archaeology in Columbia University. In his scientific investigation in the west coast provinces of Ecuador and Colombia he has made many valuable discoveries. His first visit to this region was made in the summer of 1906. In a communication to the International Congress of Americanists held at Vienna in 1908, among other interesting details was the following account dealing with the subject of decoration of the teeth:

"Another custom which we found in Esmeraldas, and which, so far as we are aware, is not present in any other part of South America, is the decoration of the teeth by the insertion of inlays in small perforations cut in the enamel of the upper incisors. This custom of decorating the teeth was quite common in various parts of Mexico, where different settings were used. In the Mayan area, so far south as Salvador, the object most often used for the inlay was jadeite. In Mexico, for example in Oaxaca, I have found hematite used; in Vera Cruz, turquoise has been found, and in other parts teeth with settings of rock crystal, obsidian, and a real cement have been found. We have never heard of this custom in Colombia or Peru, but in Esmeraldas, in Atacames, skulls have been found with tiny disks of gold set into the teeth in the same manner as in Mexico and Central America, with the exception of the material."

In the June number of the Bulletin of the Pan American Union, Washington, D. C., appears a review of Professor Saville's latest publication, "Pre-Columbian Decoration of the teeth in Ecuador," in which the reviewer states that the finding of teeth inlaid with gold, turquois and other substances in the skulls and among the skeletal remains of aborigines who lived in various parts of the American continents prior to the Spanish discoveries has been a matter of peculiar interest. "Whether this insertion of foreign substances in the enamel of the teeth was always for merely decorative purposes or whether at times it may have been to serve a useful end has been a mooted question. The general consensus

of opinion among anthropologists is that ornamentation was the sole object."

Last summer Professor Saville returned from another archaeological trip in South America with numerous valuable specimens, among them being one of unusual interest, described by the Professor as follows:

"In the spring of 1913, a Chólo, one of the natives of Atacames, a town in the province of Esmeraldas, about 18 miles southwest of the city of Esmeraldas, found a skeleton in a burial tube on the right bank of the Rio Atacames, just above the town. The skull was found with the teeth inlaid with gold, but the finder contented himself with breaking off the superior maxillary, throwing the rest of the skull away. When I visited the town in June of the present year for the purpose of making some excavations to supplement my former work, I obtained the fragment. The two upper middle teeth are decorated by the insertion of thin gold disks in cavities drilled or bored in the enamel of the face of the teeth. An unusual dental feat, in addition to the decoration, is found in the right middle incisor, but a right lateral incisor, which does not belong to the jaw but was implanted to replace the middle incisor. This is such an extraordinary feature that we must weigh very carefully the evidence as to its having been found in the jaw \* \* \* Indeed there is no reason to doubt that the replacement is a genuine triumph of the ancient dentists of Atacames."

Another skull showed teeth that had been "face-crowned" with gold, the enamel having been skillfully removed down to the dentine and the teeth being in a perfect state of preservation. So much for the Indian dentists of a thousand years ago.

THE GREATEST RESULTS IN EVERY  
FIELD OF EFFORT ARE USUALLY  
ATTAINED BY SIMPLE MEANS AND  
THE EXERCISE OF ORDINARY  
QUALITIES.

*The Artisan.*



# How the American Indian Came Across From China:

By *W. H. Ballou, Sc. D., in the New York American.*



ET your clock back to a period extending from several hundred thousand years to 70,000 years ago; to the time of the evolution of the human race and of other mammalia. Let your imagination roam from that period as far back as you like. It should not be difficult for any one to set up a mental image of a world at that time considerably different in its natural conformations to those which exist to-day. We know this tentatively because of the discovery of animal and

plant remains in places which they could only have reached on land bridges.

Where were these land bridges and what crossed them? Many men of science for several hundred years have given much attention to the subject and assembled vast collections and data and specimens in proof of the general hypothesis. Not a single man of science has thrown doubt on the existence of land bridges extending entirely around the region of the Arctic Circle in ancient times. The exact contours of such bridges, however, remain more or less of a mystery.

At the present moment, the third expedition of Princeton University under Professor Gilbert Van Ingen, one of the greatest invertebrate paleontologists, is investigating in Newfoundland and collecting fossils to establish such a bridge and its location, connecting that province with Scotland and Scandinavia. It may well be doubted if Professor Van Ingen will accept as such bridge the apparent ridge of rock on which the Atlantic cables are laid. The water over this ridge ranges to 5,000 feet depths and lies too far south of the Continental Shelf, the line around continents where the ocean abyss jumps from six hundred feet to precipitous depths. All that he will attempt to do will be to prepare a map of curvatures in lesser depths, which conservative investigators can accept. This latter class accept as conclusive the hypothesis of Matthew that ocean abysses were never crossed by land bridges, connecting for instance, Australia, Madagascar, and Cuba with the mainlands.

Admitting, tentatively, then, former land bridges that connected Asia and Alaska on one side of the world, and Scandinavia, Scotland, Europe, Iceland, Faroe and other islands, Greenland, and Labrador on the other side, there remains to show Missourians and others what peoples, animals, and plants made use of these bridges for their migrations, using legs in place of Pullman cars.

America was peopled before the last ice age set in. By whom and how? Matthew has shown that all life, animal and vegetable, was dispersed from a Holarctic-Asiatic region, of which Tibet was the center, migrating in successive waves until the outermost parts of the earth were reached. Boas has demonstrated that the Mongoloid type of men, from their habitat in northern and central Asia, reached Europe and the new world.

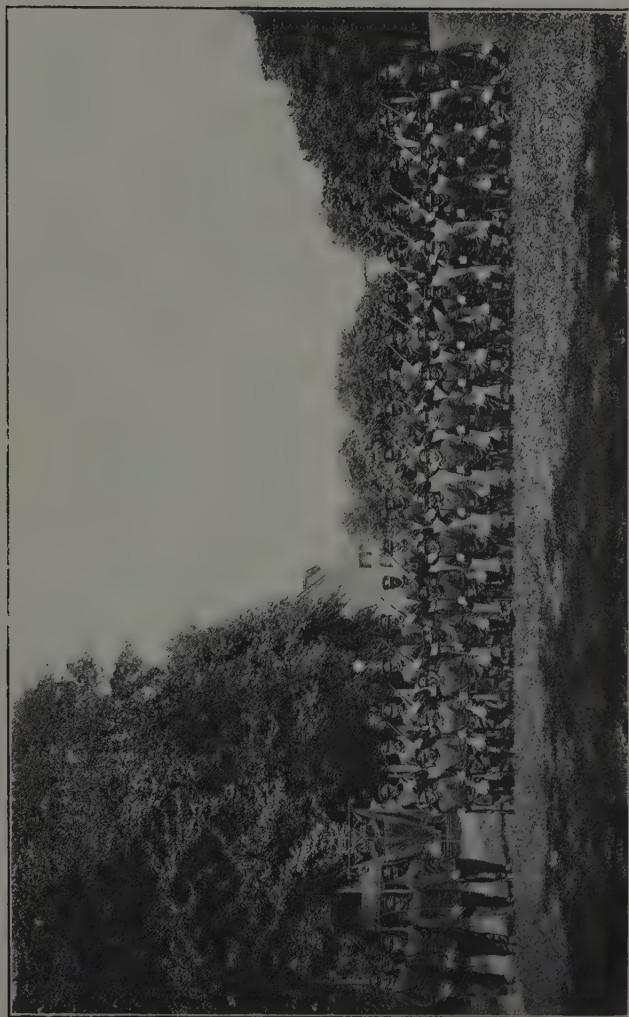
As to the use of the natural bridge between Northeastern Asia and Alaska, Boas finds that the only people that patronized it prior to the last ice age, were the Ainus of Japan and the Pacific northwestern tribes. No culture of these peoples, who intermingled at will, has ever been found existing among other American tribes. Boas says: "Pottery neither reached the Pacific Northwest or the extreme of South America, and the art forms of the North Pacific coast and of the Arctic coast, show no affiliation with those of the middle portions of the continent." Our New York State Indians are regarded as still primitive Aryans.

What is the answer? Mongolians could not have passed through Siberia and Alaska to Middle North America without leaving traces of their own culture and carrying along some of the culture of the Ainus or other northerners. Further, Asiastics were cut off from northeastern migrations both by the terrible Mongolian steppes and the vast ranges of east and west running snow-clad mountains. They could have reached America in two ways only. They could have used some form of craft or they could have traveled across the prehistoric land bridge from Europe to Labrador.

Matthew well remarks that if a canoe full of Asiastics got blown across the Atlantic once in a century or once in ten centuries, it would be ample to populate the world during the thousands of years man has existed on earth. These canoes, however, could not well contain domestic animals, and there is ample evidence that the prehistoric Americans either brought domestic animals and food plants with them across the land bridge or tamed the animals and plants they found here. The idea of the Atlantic bridge fits best, as the domestic animal and plant looms up on the historic horizon with first brainy men. If any Missourian still remains to be shown, he has only to try the experiment that has so often been adapted to make good the hypothesis. Let him attempt to separate Chinamen or Indians when a dozen or more of them are dressed alike. And then, there is that early Mexican culture identical with that of Egypt.

There were vast populations of mankind, enormously increasing, 250,000 years and more ago. Why sit in your easy chair, puff up like a cobra, and imagine that you have a monopoly on brains, mind, and invention? In some respects you haven't even advanced in civilization up to the age of the lost arts of 6,000 to 8,000 years ago. You haven't been





WINNING TROOP, COMPETITIVE MILITARY DRILL—CARLISLE INDIAN SCHOOL, 1916



WINNING GIRLS' COMPANY, COMPETITIVE DRILL—CARLISLE INDIAN SCHOOL, 1916

able to reinvent those lost arts. Your brain case is even smaller than was that of prehistoric man.

I doubt if any of us living in this latitude have brains enough to withstand a sudden descent of an ice age such as confronted first men, side step it, and survive it.

I doubt if there is a man living who can whip a gorilla with his hands or chimpanzee, orang or gibbon or other huge primate as prehistoric men did, and had to do, in order to exist.

Professor Van Ingen's land bridge around the Arctic Circle region must have been good traveling according to Geikie, Nansen, Knowlton, Stejneger, Ewart and other noted investigators. The Arctic world was sub-tropical in those days before the formation of ice caps. The prehistoric Westons or nomads perhaps on horseback must have delighted in polar travels as much as you or I in a hike in Central Park on a balmy day in June. Some of these same trees our prehistoric friends encountered, the ginkos, have been liberally transplanted in our parks, brought hither years ago from Japan and transplanted. I regret to note that one of them is now being attacked in Central Park by the terrible saprophytic fungus, *Fomes leucophaeus*, just one of the brackets of which will shed pores enough to destroy many other park trees. Knowlton says of the climate in those times, based on fossil flora, that it seems safe to assume a moist, warm, possibly sub-tropical condition. More than a 100 species of fossil flora unearthed in England, have been found in the rocks entirely around the Arctic circle.

Leonard Stejneger, perhaps, did the most stupendous work in compiling the faunae and florae which he assumed could only have traveled across the land bridge between Scotland and Norway. In so doing, he had to admit similar bridges which others had set up between Scotland, Faroe Islands, Iceland, Greenland, and Labrador. No scientist can assert positively that such bridges existed, no matter how much data he collects. What he can prove is that no other known method existed in former times by which a belt entirely around the northern part of the globe was peopled with identical animals and plants, vertebrates and invertebrates. The fossil forms in collection tell very near exactly where each genus originated. How did these genera or their successors disperse? If they could not fly or were not transported, then he insists, they must have dispersed by means of existing land bridges and occasionally by natural marine grass rafts.

The distance between Faroe Islands and Scotland and between the latter and western Norway is 240 miles in each case. The water depths existing between them to-day and in the other spaces was caused, geologists assert, by the weight of successive ice caps, depressing the earth crust. Some geologists figure as many as six successive ice caps. The number has little bearing on the matter since the last one was sufficiently



appalling to make for perfect navigation at the present time, where walking had formerly been good. I say appalling because there is no doubt that the last ice cap, still receding northward, pounded the earth crust down to stay where it is while the first ice caps did no such stunt. One or several times, it is assumed, the earth arose several hundred feet or more after the first ice cap receded.

Archibald Geikie accumulated a lot of data on the subject which remains in his still authoritative work on the "Great Ice Age." So, the geologists' data is used by paleontologists to support hypothetical land bridges in order to account for migrations of men, other mammals, flightless birds, reptiles, crustaceans, invertebrates, trees, and plants which had seeds too heavy to be borne by winds and which sank in water rather than swim for it.

Just how invertebrates migrate long distances is a matter which it is to be hoped Professor Ingen, or others, will clear up. I have seen clams travel by suction, but only on the bottom of water areas. Stejneger sets up such Atalantic and Arctalantic biota as world girdlers on the land bridges but without describing the processs. Among these he mentions terrestrial molluscs, earthworms, isopod crustaceans, noctuid moths, bumble bees, and an entire series of insects of the order of lepidoptera hemiptera, and coleoptera.

Some of these are essentially slow travelers and probably required hundreds, perhaps thousands, of years to disperse the tremendous distances across those land bridges and over the mountains and plains of the mainlands. Give a pair of snails several millions of years and they and their descendants could no doubt populate the earth entire with their kind, however slow a cartoonist might depict them.

Among the mammals common to the whole sectional circle are the variable hare, the lemming, the red-backed field mouse, the wild reindeer, the red deer, very primitive horses, and the extinct mammoth.

When one considers the several types of men, other animals and plants that have apparently endured continuously since early Pleistocene times, and some of them much longer, in the cold storage section of the world, there cannot be the slightest doubt that if land bridges existed, there was ample traveling done over them in both directions. The Princeton expedition will at least have the satisfaction that all of the evidence collected supports the hypothesis of a Labrador-Scotland land bridge. Even a Missourian cannot deny that it may have been.





## The Game of Life

LIFE becomes, as the stoics more than once tell us, like a play which is acted or a game played with counters. Viewed from the outside, these counters are valueless; but to those engaged in the game their importance is paramount. What really and ultimately matters is that the game shall be played as it should be played. God, the eternal dramatist, has cast you for some part in his drama and hands you the role. It may turn out that you are cast for a triumphant king; it may be for a slave who dies of torture. What does that matter to the good actor? He can play either part; his only business is to accept the role given him and to perform it well. \* \* \* Success or failure is a thing he can determine without stirring a hand; it hardly interests him. What interests him is that one thing which he cannot determine—the action of your free and conscious will.

GILBERT MURRAY



**T**HAR'S a great  
deal of human  
natur' in mankind,  
muchly mixed with  
chunks of dog.

DAVY CROCKETT

